

1 THE HONORABLE TIFFANY M. CARTWRIGHT  
2  
3  
4  
5  
6

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON AT  
9 TACOMA

10 DALYNNE SINGLETON, as  
11 Administrator of the ESTATE of SHELLY  
12 ANN MONAHAN, and on behalf of all  
13 statutory beneficiaries thereof, including  
14 JM, SM, AM, RV, ROSIE MONAHAN,  
15 KEITH MONAHAN, and RAY EDWARD  
16 MARTINEZ,

17 Plaintiff,

18 v.

19 CLARK COUNTY, a county of the State of  
20 Washington, NAPHCARE, INC., an  
21 Alabama Corporation, ALYSSA CLARKE,  
22 LEXIE HUNTER, ROSE MAINAH,  
23 SHANNON PARIS, JULI PFAU, KAYLEA  
TRIPP, AMANDA BIVER, ALEXANDRIA  
SLISS, JAMES EASTMAN, CHANELLE  
HACKNEY, DANIEL GORECKI, AUSTIN  
E. CLOYD, IAN DAVID FRAZIER, RAY  
BETTGER, KEITH JONES, JUSTIN  
SHOEMAKER, CLARK COUNTY JOHN  
DOES ONE THROUGH TEN, in their  
individual and official capacity, and  
NAPHCARE JOHN DOES ONE  
THROUGH TEN, in their individual and  
official capacity,

24 Defendants.

25 No. 3:24-cv-05392-TMC

26 STIPULATED PROTECTIVE  
ORDER

STIPULATED PROTECTIVE ORDER

(No. 3:24-cv-05392-TMC)

Perkins Coie LLP

1201 Third Avenue, Suite 4900  
Seattle, Washington 98101-3099  
Phone: +1.206.359.8000  
Fax: +1.206.359.9000

1. **PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. **“CONFIDENTIAL” MATERIAL**

“Confidential” material shall include the following documents and tangible things produced or otherwise exchanged: any and all “Protected Health Information” related to patients other than Shelly Monahan; any and all documents related to NaphCare’s proprietary electronic health records system that reflects trade secrets or proprietary information; any and all NaphCare employment contracts or employment records, including but not limited to personnel files, disciplinary records, or records regarding wage, payroll, healthcare, benefits, employment applications, resumes, background checks, evaluations, licensing, certifications, registrations, or similar; NaphCare’s internal policies and procedures that have not already been provided to a public entity subject to RCW Ch. 42.56 and are not subject to an exception under RCW Ch. 42.56 or other applicable state law; NaphCare’s internal standards and manuals that have not already been provided to a public entity subject to RCW Ch. 42.56 and are not subject to an exception under RCW Ch. 42.56 or other applicable state law; NaphCare’s training materials that have not already been provided to a public entity subject to RCW Ch. 42.56 and are

1 not subject to an exception under RCW Ch. 42.56 or other applicable state law;  
2 NaphCare's financial documents, including profit and loss reports, annual or year-  
3 end reports, and budgets; NaphCare's client lists to the extent that they reflect  
4 clients that are not public entities; NaphCare's contracts with non-parties that are  
5 not public entities; NaphCare's corporate governance documents and meeting  
6 minutes; Personal or confidential information contained in personnel files of current  
7 or former employees of Clark County; Clark County Jail policies, procedures,  
8 practices, videos, or other information, when maintaining confidentiality of those  
9 materials is necessary to protect the safety of Clark County employees, inmates, or  
10 the public or to ensure effective jail management and operations except for  
11 information that is otherwise publicly available; any other documents that should  
12 be treated as confidential, with specific description by mutual agreement of the  
13 parties; any and all inmate jail records pursuant to RCW 70.48.100 relating to  
14 inmates other than Shelly Monahan; and confidential reports and records pursuant  
15 to RCW 68.50.105, but the personal representative of the decedent may unilaterally  
16 waive the confidentiality of these reports.

17 For the purposes of this Stipulated Protective Order, "Protected Health  
18 Information" shall have the same scope and definition as set forth in 45 C.F.R. §§  
19 160.103 and 164.501. Protected Health Information includes, but is not limited to,  
20 health information, including demographic information, relating to either: (a) the  
21 past, present, or future physical or mental condition of an individual; (b) the  
22 provision of care to an individual; (c) the payment for care provided to an individual,  
23 which identifies the individual or which reasonable could be expected to identify the  
24 individual; and (d) any other information subject to the requirements of the Health  
25 Insurance Portability and Accountability Act of 1996. 26

1                   Names and personal identifiers (including those listed in 45 C.F.R. §  
2 164.514(b)(2)(i) shall be redacted prior to production. This shall not include any  
3 information related to Shelly Monahan.

4           3. SCOPE

5                   The protections conferred by this agreement cover not only Confidential  
6 material (as defined above), but also (1) any information copied or extracted from  
7 Confidential material; (2) all copies, excerpts, summaries, or compilations of  
8 Confidential material; and (3) any testimony, conversations, or presentations by  
9 parties or their counsel that might reveal Confidential material.

10                  However, the protections conferred by this agreement do not cover  
11 information that is in the public domain or becomes part of the public domain  
12 through trial or otherwise.

13           4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

14           4.1 Basic Principles. A receiving party may use Confidential material  
15 (including but not limited to Protected Health Information) that is disclosed or  
16 produced by another party or by a non-party in connection with this case only for  
17 prosecuting, defending, or attempting to settle this litigation. Confidential material  
18 may be disclosed only to the categories of persons and under the conditions  
19 described in this agreement. Confidential material must be stored and maintained  
20 by a receiving party at a location and in a secure manner that ensures that access is  
21 limited to the persons authorized under this agreement.

22           4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
23 otherwise ordered by the court or permitted in writing by the designating party, a  
24 receiving party may disclose any Confidential material only to (and only to the  
25 extent reasonably connected to this litigation): 26

(a) the receiving party's counsel of record in this action, as well as employees of counsel and/or their subcontractors (i.e. nurse paralegals, investigators, etc.) to whom it is reasonably necessary to disclose the information for this litigation;

(b) the officers, directors, and employees (including in house counsel) of the receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular document or material produced is for Attorney's Eyes Only and is so designated;

(c) experts and consultants to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court, court personnel, and court reporters and their staff;

(e) copy or imaging services retained by counsel to assist in the duplication of Confidential material, provided that counsel for the party retaining the copy or imaging service instructs the service not to disclose any Confidential material to third parties and to immediately return all originals and copies of any Confidential material;

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Confidential material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this agreement;

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

1 (h) mediators and their staff.

2 4.3 Filing Confidential Material. Before filing Confidential material or  
3 discussing or referencing such material in court filings, the filing party shall confer  
4 with the designating party, in accordance with Local Civil Rule 5(g)(3)(A), to  
5 determine whether the designating party will remove the confidential designation,  
6 whether the document can be redacted, or whether a motion to seal or stipulation  
7 and proposed order is warranted. During the meet and confer process, the  
8 designating party must identify the basis for sealing the specific confidential  
9 information at issue, and the filing party shall include this basis in its motion to  
10 seal, along with any objection to sealing the information at issue. Local Civil Rule  
11 5(g) sets forth the procedures that must be followed and the standards that will be  
12 applied when a party seeks permission from the court to file material under seal. A  
13 party who seeks to maintain the confidentiality of its information must satisfy the  
14 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the  
15 motion to seal. Failure to satisfy this requirement will result in the motion to seal  
16 being denied, in accordance with the strong presumption of public access to the  
17 Court's files.

18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.  
20 Each party or non-party that designates information or items for protection under  
21 this agreement must take care to limit any such designation to specific material  
22 that qualifies under the appropriate standards. The designating party must  
23 designate for protection only those parts of material, documents, items, or oral or  
24 written communications that qualify, so that other portions of the material, 25  
26

1 documents, items, or communications for which protection is not warranted are not  
 2 swept unjustifiably within the ambit of this agreement.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations  
 4 that are shown to be clearly unjustified or that have been made for an improper  
 5 purpose (e.g., to unnecessarily encumber or delay the case development process or  
 6 to impose unnecessary expenses and burdens on other parties) expose the  
 7 designating party to sanctions.

8 If it comes to a designating party's attention that information or items that it  
 9 designated for protection do not qualify for protection, the designating party must  
 10 promptly notify all other parties that it is withdrawing the mistaken designation.

11       5.2 Manner and Timing of Designations. Except as otherwise provided in  
 12 this agreement (*see, e.g.*, second paragraph of section 5.2(b) below), or as otherwise  
 13 stipulated or ordered, disclosure or discovery material that qualifies for protection  
 14 under this agreement must be clearly so designated before or when the material is  
 15 disclosed or produced.

16           (a) Information in documentary form: (e.g., paper or electronic  
 17 documents and deposition exhibits, but excluding transcripts of depositions or other  
 18 pretrial or trial proceedings), the designating party must affix the word  
 19 "CONFIDENTIAL" to each page that contains Confidential material. If only a  
 20 portion or portions of the material on a page qualifies for protection, the producing  
 21 party also must clearly identify the protected portion(s) (e.g., by making appropriate  
 22 markings in the margins).

23           (b) Testimony given in deposition or in other pretrial proceedings:  
 24 the parties and any participating non-parties must identify on the record, during  
 25 the deposition or other pretrial proceeding, all protected testimony, without  
 26 prejudice to their right to so designate other testimony after reviewing the

transcript. Any party or non-party may, within fifteen days after receiving the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the issue should be addressed during the pre-trial conference.

6 (c) Other tangible items: the producing party must affix in a  
7 prominent place on the exterior of the container or containers in which the  
8 information or item is stored the word "CONFIDENTIAL." If only a portion or  
9 portions of the information or item warrant protection, the producing party, to the  
10 extent practicable, shall identify the protected portion(s).

11        5.3     Inadvertent Failures to Designate. If timely corrected, an inadvertent  
12 failure to designate qualified information or items does not, standing alone, waive  
13 the designating party's right to secure protection under this agreement for such  
14 material. Upon timely correction of a designation, the receiving party must make  
15 reasonable efforts to ensure that the material is treated in accordance with the  
16 provisions of this agreement. The Parties further agree that all documents and/or  
17 materials in fact containing Protected Health Information related to patients other  
18 than Shelly Monahan, even if not designated as such by the producing party, shall  
19 be treated by the receiving party as if it had been designated as "Confidential"  
20 pursuant to Paragraph 5.2.

21 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

22        6.1     Timing of Challenges. Any party or non-party may challenge a  
23 designation of confidentiality at any time. Unless a prompt challenge to a  
24 designating party's confidentiality designation is necessary to avoid foreseeable,  
25 substantial unfairness, unnecessary economic burdens, or a significant disruption  
26 or delay of the litigation, a party does not waive its right to challenge a

1 confidentiality designation by electing not to mount a challenge promptly after the  
 2 original designation is disclosed.

3       6.2     Meet and Confer. The parties must make every attempt to resolve any  
 4 dispute regarding confidential designations without court involvement. Any motion  
 5 regarding confidential designations or for a protective order must include a  
 6 certification, in the motion or in a declaration or affidavit, that the movant has  
 7 engaged in a good faith meet and confer conference with other affected parties in an  
 8 effort to resolve the dispute without court action. The certification must list the  
 9 date, manner, and participants to the conference. A good faith effort to confer  
 10 requires a face-to-face meeting or a telephone conference.

11       6.3     Judicial Intervention. If the parties cannot resolve a challenge without  
 12 court intervention, the designating party may file and serve a motion to retain  
 13 confidentiality under Local Civil Rule 7 (and in compliance with Local Civil Rule  
 14 5(g), if applicable). The burden of persuasion in any such motion shall be on the  
 15 designating party. Frivolous challenges, and those made for an improper purpose  
 16 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
 17 expose the challenging party to sanctions. All parties shall continue to maintain the  
 18 material in question as confidential until the court rules on the challenge.

19       7.       PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
 20       OTHER LITIGATION

21       If a party is served with a subpoena or a court order issued in other litigation  
 22 that compels disclosure of any information or items designated in this action as  
 23 “CONFIDENTIAL,” that party must:

24               (a)     promptly notify the designating party in writing and include a  
 25 copy of the subpoena or court order; 26

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose Confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed Confidential material (including any Protected Health Information) to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein. 26

1 10. NON TERMINATION AND RETURN OF DOCUMENTS

2 Within six months after the termination of this action, including all appeals,  
3 each receiving party must return all Confidential material (including any Protected  
4 Health Information related to patients other than Shelly Monahan) to the  
5 producing party, including all copies, extracts and summaries thereof.

6 Alternatively, the parties may agree upon appropriate methods of destruction  
7 subject to the destroying party's certification that such party has not retained any  
8 copies of relevant Confidential material (including Protected Health Information).

9 Notwithstanding this provision, all counsel of record are entitled to retain one  
10 archival copy of all documents received, including documents filed with the court;  
11 trial, deposition, and hearing transcripts; correspondence; deposition and trial  
12 exhibits; expert reports; attorney work product; and consultant and expert work  
13 product, even if such materials contain Confidential material.

14 The confidentiality obligations imposed by this agreement shall remain in  
15 effect until a designating party agrees otherwise in writing or a court orders  
16 otherwise.

17 11. PROTECTED HEALTH INFORMATION

18 Nothing in the Stipulated Protective Order authorizes any party or their  
19 counsel to obtain Protected Health Information through means other than formal  
20 discovery requests, subpoenas, depositions, patient authorizations, or other lawful  
21 processes. This Stipulated Protective Order does not limit or control the use of  
22 Protected Health Information that Plaintiffs independently and lawfully obtain  
23 from a third party or that comes into possession of any party, or their counsel, from  
24 a source other than a Covered Entity as defined in 45 C.F.R. § 160.103. 25

## 12. PERSONNEL AND DISCIPLINARY RECORDS – NO COPYING

2 The Parties agree that to the extent any personnel and/or disciplinary records  
 3 of any Clark County and/or NaphCare employee(s) are produced to Plaintiffs'  
 4 counsel, Plaintiffs' counsel will not permanently give a copy of the document(s) to,  
 5 or allow the document(s) to be copied by, anyone other than experts and consultants  
 6 as necessary for this litigation. If Plaintiffs' counsel shows a copy of the document(s)  
 7 to any named parties, the document(s) must remain under Plaintiffs' counsel's  
 8 direct supervision at all times. These records will be designated "No Copying."

9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

11 By: s/ Jay H. Krulewitch

12 Jay H. Krulewitch, WSBA #17612  
 13 JAY H. KRULEWITCH, ATTORNEY AT  
 14 LAW  
 15 P.O. Box 33546  
 16 Seattle, WA 98133  
 17 P: (206) 233-0828  
 18 F: (206) 628-0794  
 19 Email: [jay@krulewitchlaw.com](mailto:jay@krulewitchlaw.com)

20 By: s/ J. Nathan Bingham

21 J. Nathan Bingham, WSBA #46325  
 22 Email: [jnb@krutchlindell.com](mailto:jnb@krutchlindell.com)

23 By: s/ James T. Anderson

24 James T. Anderson, WSBA #40494  
 25 Email: [jta@krutchlindell.com](mailto:jta@krutchlindell.com)

26 By: s/ Jeffrey C. Jones

27 Jeffrey C. Jones, WSBA #7670  
 28 Email: [jcj@krutchlindell.com](mailto:jcj@krutchlindell.com)  
 29 KRUTCH LINDELL BINGHAM JONES, P.S.  
 30 3316 Fuhrman Ave E, Suite 250  
 31 Seattle, Washington 98102  
 32 Telephone: (206) 682-1505

1 Facsimile: (206) 467-1823  
2  
3

4 *Attorney for Plaintiffs*  
5

6 By: s/ David A. Perez  
7 David A. Perez, WSBA #43959  
8

9 PERKINS COIE LLP  
10 1201 Third Avenue, Suite 4900  
11 Seattle, Washington 98101-3099  
12 Telephone: +1.206.359.8000  
13 Facsimile: +1.206.359.9000  
14 DPerez@perkinscoie.com  
15

16 By: s/ Megan K. Houlihan  
17 Megan K. Houlihan, WSBA #53293  
18

19 By: s/ Adrianna Simonelli  
20 Adrianna Simonelli, WSBA #58472  
21 PERKINS COIE LLP  
22 1120 N.W. Couch Street, Tenth Floor  
23 Portland, Oregon 97209-4128  
24 Telephone: +1.503.727.2000  
25 Facsimile: +1.503.727.2222  
26 MHoulihan@perkinscoie.com  
ASimonelli@perkinscoie.com

27 Attorneys for Defendants NaphCare, Inc., Alyssa  
28 Clarke, Lexie Hunter, Rose Mainah,  
29 Shannon Paris, Juli Pfau, Kaylea Tripp, Amanda  
30 Biver, James Eastman, Alexandria  
31 Sliss, Chanelle Hackney, and Daniel Gorecki  
32

33 By: s/ Audrey M. Airut Murphy  
34 Audrey M. Airut Murphy, WSBA #56833  
35

36 By: s/ Ann E. Trivett  
37 Ann E. Trivett, WSBA #39228  
38 KEATING, BUCKLIN & McCORMACK,  
39 INC., P.S  
40 1201 Third Avenue, Suite 1580  
41 Seattle, WA 98101  
42 Phone: (206) 623-8861  
43 Fax: (206) 223-9423  
44

1 [amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)  
2 [atrivett@kbmlawyers.com](mailto:atrivett@kbmlawyers.com)

3 *Special Deputy Prosecuting Attorneys for*  
4 *Defendants Clark County, Austin Cloyd,*  
5 *David Frazier, Ray Bettger, Keith Jones, and*  
6 *Justin Shoemaker*

12 PURSUANT TO STIPULATION, IT IS SO ORDERED

13 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the  
14 production of any documents in this proceeding shall not, for the purposes of this  
15 proceeding or any other federal or state proceeding, constitute a waiver by the  
16 producing party of any privilege applicable to those documents, including the  
17 attorney-client privilege, attorney work-product protection, or any other privilege or  
18 protection recognized by law.

19 DATED this 8<sup>th</sup> day of November.



20  
21  
22  
23 The Honorable Tiffany M. Cartwright  
24 United States District Court Judge  
25  
26